

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Maura Roche	Team: Squad #10	CCRB Case #: 202106002	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 06/28/2020 4:09 PM, Sunday, 06/28/2020 4:09 PM	Location of Incident: Washington Square Park North	Precinct: 06	18 Mo. SOL 12/28/2021	EO SOL 5/4/2022	
Date/Time CV Reported Wed, 10/06/2021 1:47 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 10/06/2021 1:47 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Hensley Caraballo	21957	962970	MTS PCT
2. PO David James	11580	961834	006 PCT
3. SGT Thomas Manning	01789	930644	113 PCT
4. officers			
5. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. CPT Hector Barias	00000	934455	SRG 1
2. DTS Leroy Bedford	01829	923545	006 PCT
3. PO Matthew Bessen	14934	967774	075 PCT
4. PO Adam Blum	28057	933648	007 PCT
5. PO Stephen Cambria	05589	960309	006 PCT
6. PO Maureen Carey	20116	958370	006 PCT
7. SGT DS Joseph Chabus	02134	925054	DB FCTF
8. DC Salvatore Comodo	00000	882370	PBMS
9. PO Matthew Contant	09703	960391	006 PCT
10. LT SA Robert Corbett	00000	918878	LEG BUR
11. PO Justin Cristiano	11366	951891	006 PCT
12. PO Frederick Crump	11841	948828	PER BUR
13. LT Marion Cuevas	00000	941608	LEG BUR

<b>Witness Officer(s)</b>	<b>Shield No</b>	<b>Tax No</b>	<b>Cmd Name</b>
14. PO Patrick Defonzo	09791	957523	006 PCT
15. PO Yousef Demes	26487	965039	006 PCT
16. PO Mariama Diallo	07690	966029	MTS PCT
17. PO Jonathan Dones	27390	948203	006 PCT
18. CPT Aaron Edwards	00000	932593	017 PCT
19. PO Thomas Foronjy	00108	963522	007 PCT
20. LT Gary Giersbach	00000	915792	006 PCT
21. SGT Juan Hernandez	03610	949100	007 PCT
22. PO Caitlin Higgins	20538	952849	GVSD Z1
23. SGT SA Daniel Houlahan	00821	925472	006 PCT
24. PO Bianca Irwin	02049	965210	006 PCT
25. PO Judith James	23599	960721	013 PCT
26. SGT Kenneth Jefferson	04968	944678	007 PCT
27. DT2 Roxana Jones	05360	937218	I.A.B.
28. LT Paul Jurgens	00000	945863	RMB QAD
29. CPT Tommy Keung	00000	942001	I.A.B.
30. PO Victor Lara	25333	930533	MTS PCT
31. PO Kenny Liriano	20964	967961	007 PCT
32. PO Wandy Lopez	18762	958835	007 PCT
33. PO Carolina Lugo	27213	948239	013 PCT
34. SGT Stephen Mazzaro	04659	949288	CRM CTL
35. PO Kerry Mccarty	20815	966700	PBMS SU
36. PO David Medrano	05800	937083	SRG
37. PO Wanda Meran	28264	944123	007 PCT
38. SGT Michael Merritt	04314	942197	MTS PCT
39. LT Francy Monestime	00000	946018	OMAP
40. PO Bryan Pizzimenti	11765	952122	122 PCT
41. PO Nora Reade	21675	968701	006 PCT
42. DT3 Claude Rhone	02593	923031	I.A.B.
43. PO Sean Riordan	08739	963716	007 PCT
44. PO Elvis Rivera	14648	964241	M E L D
45. PO Grace Roserotapia	21698	968766	006 PCT
46. PO Anthony Ruggiero	25666	937454	122 PCT
47. SGT Greg Sanfilippo	04210	947705	CTERRDV
48. PO Denise Sezer	21860	962794	005 PCT
49. LT Terrance Smalls	00000	939481	114 PCT
50. PO Lanayia Soto	31614	946562	F.T.S.
51. LT Erik Tarnok	00000	947533	006 PCT
52. CPT Christopher Treubig	00000	935869	PBMS
53. PO Nicholas Virgilio	24819	946379	006 DET
54. PO Joseph Wall	20111	951411	122 PCT
55. SGT John Wu	03652	953581	006 PCT
56. DI Conor Wynne	00000	937761	HWY DST

Officer(s)	Allegation	Investigator Recommendation
A. officers	Force: officers used physical force against individuals.	[REDACTED]
B.PO David James	Force: Police Officer David James used physical force against An individual.	[REDACTED]
C.SGT Thomas Manning	Force: Sergeant Thomas Manning used physical force against individuals.	[REDACTED]
D.SGT Thomas Manning	Force: Sergeant Thomas Manning used physical force against § 87(2)(b)	[REDACTED]
E.SGT Thomas Manning	Force: Sergeant Thomas Manning used physical force against § 87(2)(b)	[REDACTED]
F.SGT Thomas Manning	Discourtesy: Sergeant Thomas Manning spoke discourteously to individuals.	[REDACTED]
G.SGT Thomas Manning	Discourtesy: Sergeant Thomas Manning spoke discourteously to § 87(2)(b)	[REDACTED]
H.PO Hensley Caraballo	Force: Police Officer Hensley Caraballo used pepper spray against individuals.	[REDACTED]
I.PO Hensley Caraballo	Force: Police Officer Hensely Caraballo used pepper spray against § 87(2)(b)	[REDACTED]
J.PO Hensley Caraballo	Force: Police Officer Hensely Caraballo used pepper spray against § 87(2)(b)	[REDACTED]
K. An officer	Abuse: An officer threatened § 87(2)(b) with the use of force.	[REDACTED]
L. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]

### Case Summary

On June 29, 2020, § 87(2)(b) filed this complaint on behalf of himself and unidentified individuals online. Additional complaints regarding the same incident were filed by Briana § 87(2)(b) and § 87(2)(b). This case derives from CCRB cases 202004828 and 202105997.

On June 28, 2020, at approximately 4 p.m., people gathered in Washington Square Park after the Reclaim Pride Coalition's Queer Liberation March.

After officers placed a prisoner in a transportation van, people congregated in the front of the arch in Washington Square Park in the street at the intersection of Washington Square Park North and 5<sup>th</sup> Avenue while a group of officers on motor scooters attempted to drive westbound through the intersection. People surrounded the officers on motor scooters, preventing them from moving through the intersection, and two officers on motor scooters fell to the ground. Officers on foot, including PO David James of the 6<sup>th</sup> Precinct, pushed people away from the officers on motor scooters (**Allegations A and B: Force – Physical Force**, § 87(2)(g)).

Sgt. Thomas Manning and PO Hensley Caraballo, both of the 14<sup>th</sup> Precinct (Sgt. Manning has since been transferred to the 113<sup>th</sup> Precinct), responded to the intersection in response to a radio call for backup. Sgt. Manning pushed people, including § 87(2)(b) and § 87(2)(b) out of the intersection and away from the officers on the motor scooters (**Allegations C, D, and E: Force – Physical Force**, § 87(2)(g)) and said, "Get the fuck back!" (**Allegations F and G: Discourtesy – Word**, § 87(2)(g)). When people did not comply with backing up, PO Caraballo used his pepper spray, hitting people in front of him including § 87(2)(b) and § 87(2)(b) (**Allegations H, I, and J: Force – Pepper Spray**, § 87(2)(g)).

§ 87(2)(b) who had been in the general vicinity when PO Caraballo used his pepper spray, walked westbound into the park when an officer allegedly chased him with his baton (**Allegation K: Abuse of Authority – Threat of Force**, § 87(2)(g)) and allegedly yelled, "You think we're fucking around here?" (**Allegation L: Discourtesy – Word**, § 87(2)(g)).

§ 87(4-b), § 87(2)(g)  
No arrests or summonses resulted from this incident.

Body worn camera footage was obtained from Det. Bedford (**BR 01 and BR 02**), PO Cambria (**BR 03 and BR 04**), PO Janison (**BR 05, BR 06, BR 07, and BR 08**), Lieutenant Tarnok (**BR 09 and BR 10**), PO Reade (**BR 11, BR 12, BR 13, and BR 14**), PO Roserotapia (**BR 15, BR 16, BR 17, and BR 18**), PO McCarty (**BR 19 and BR 20**), PO Elvis Rivera (**BR 21 and BR 22**), Captain Keung (**BR 23, BR 24, and BR 25**), Lieutenant Francy Monestime (**BR 26 and BR 27**), PO Justin Cristiano (**BR 28 and BR 29**), PO Wanda Meran (**BR 30, 31, and BR 32**), PO James, (**BR 33 and BR 34**), PO Yousef Demes (**BR 35 and BR 36**), Sgt. Smalls (**BR 37 and BR 38**), PO Matthew Contant (**BR 39, BR 40, and BR 41**), PO Patrick Defonzo (**BR 42 and BR 43**), Lieutenant Paul Jurgens (**BR 44, BR 45, and BR 46**), Lieutenant Giersbach (**BR 47 and BR 48**), Sgt. Houlahan (**BR 49 and BR 50**), PO Jonathan Dones (**BR 51, BR 52, and BR 53**), Sgt. Mazzaro (**BR 54 and BR 55**), Lieutenant Marion Cuevas (**BR 56 and BR 57**), and PO David Medrano (**BR 58 and BR 59**). TARU footage was obtained from stationary cameras at the intersection of Washington Square Park North and 5<sup>th</sup> Avenue (**BR 60, BR 61, and BR 62**). Security footage was obtained from NYU (**BR 63, BR 64, BR 65, BR 66, BR 67, BR 68, BR 69, BR 70, BR 71, BR 72, BR 73, BR 74, BR 75, and BR 76**). Cell phone footage was obtained from § 87(2)(b) (**BR 78, BR 79, BR 80, and BR 81**), and social media (**BR 77, BR 82, and 83**). The relevant videos are discussed below.

This case was added to the sensitive case list on July 9, 2020, due to media coverage of the incident (**BR 84 and BR 85**).

## Findings and Recommendations

**Allegation (A) Force: Officers used physical force against individuals.**

**Allegation (B) Force: Police Officer David James used physical force against an individual.**

**Allegation (C) Force: Sergeant Thomas Manning used physical force against individuals.**

**Allegation (D) Force: Sergeant Thomas Manning used physical force against § 87(2)(b).**

**Allegation (E) Force: Sergeant Thomas Manning used physical force against § 87(2)(b).**

**Allegation (F) Discourtesy: Sergeant Thomas Manning spoke discourteously to individuals.**

**Allegation (G) Discourtesy: Sergeant Thomas Manning spoke discourteously to § 87(2)(b).**

**Allegation (H) Force: Police Officer Hensley Caraballo used pepper spray against individuals.**

**Allegation (I) Force: Police Officer Hensley Caraballo used pepper spray against § 87(2)(b).**

**Allegation (J) Force: Police Officer Hensley Caraballo used pepper spray against § 87(2)(b).**

§ 87(2)(b) (BR 86) stated that they positioned themselves on the south side of the intersection of 5<sup>th</sup> Avenue and Washington Square Park North between the officers and people from the march so that they could facilitate de-escalate the situation. At the front of the crowd, § 87(2)(b) saw Sgt. Manning yelling for people to get out of the streets while pushing and shoving people with his hands and elbows against their upper bodies. Sgt. Manning pushed at least three people forcefully enough that they fell to the ground landing on their buttocks. There were approximately six to eight other officers around Sgt. Manning who were also pushing people in the crowd, some of whom were pushing back against the officers, but none as forcefully as Sgt. Manning.

While Sgt. Manning was in front of § 87(2)(b) a small group of officers on motorized scooters started to drive westbound through the intersection, but, because of the density of the crowd, none of the vehicles were able to move forward. When the motorized scooters could not clear the area, PO Caraballo, who was standing behind Sgt. Manning, pointed his pepper spray at the general area where § 87(2)(b) was standing, approximately six to eight feet in front of them, and issued a burst of pepper spray while moving his hand left and right in a zig zag motion, hitting two people to § 87(2)(b)'s right and left in the face. The pepper spray did not hit § 87(2)(b)'s face because of their short stature, but some pepper spray did land on their shoulder.

§ 87(2)(b) helped the two people who were hit wash out their eyes with water that they had with them. Then, in order to try to de-escalate the situation, § 87(2)(b) yelled for people to sit down in the street where they were standing. This allowed the officers on the motorized scooters to move through the intersection. Sgt. Manning and the other officers who were in that area followed the officers on the motorized scooters thought the intersection on foot and continued westbound. § 87(2)(b) had no further interactions with Sgt. Manning.

§ 87(2)(b) did not hear Sgt. Manning use any profanity toward people in the crowd at any point during the incident.

§ 87(2)(b) (BR 87) stated that after officers escorted § 87(2)(b) out of the immediate area, other officers on motor scooters drove down 5<sup>th</sup> Avenue and made a right onto Washington Square Park North. However, because of the density of the crowd, the motor scooters were not able to immediately clear the intersection. After a few minutes, the crowd cleared enough so that the motor scooters could move through the intersection, at which point Sgt. Manning and other officers entered the intersection from inside Washington Square Park.

While the crowd had partially dispersed, there were still some people in the intersection pushing forward against other people. Sgt. Manning and the other officers, without first giving instructions for the crowd to disperse, started pushing people out of the intersection. None of the

officers directly pushed § 87(2)(b) but Sgt. Manning and the other officers pushed some people who, in turn, were pushed back into § 87(2)(b) which caused him to take a few steps backward and forward, as he was being pushed on all sides. As he was pushing people, Sgt. Manning was yelling, “Get back!” It appeared to § 87(2)(b) that other officers were pulling Sgt. Manning away from the crowd, and this further confirmed to § 87(2)(b) that Sgt. Manning’s behavior was inappropriate. As Sgt. Manning and the other officers were pushing people, PO Caraballo pointed his pepper spray at another individual and issues one burst, hitting that individual and § 87(2)(b)’s bare torso. § 87(2)(b) felt burning “all over” and was not sure who else was hit with the pepper spray. § 87(2)(b) provided photographs of his torso taken immediately after he was hit with the pepper spray (**BR 88** and **BR 89**).

§ 87(2)(b) did not hear Sgt. Manning use any profanity as he was yelling at the people in the crowd.

§ 87(2)(b) (**BR 90** and **BR 91**) stated that when she got to the intersection of Washington Square Park North and 5<sup>th</sup> Avenue, she saw a group of officers on motor scooters moving slowly westbound toward MacDougal Street. One of the officers fell over with their motor scooter onto the ground, and other officers came over to assist them. At the same time, other officers in the area started to push people in the crowd away from the fallen officer and out of the street. § 87(2)(b) ended up on the northwest corner of the intersection, and, when she stood on tiptoes to see what was happening, saw officers continuing to push people out of the street to clear a path for the motor scooters. Someone in front of § 87(2)(b) fell to the ground, and she bent over to help them up.

When § 87(2)(b) stood back up, she saw Sgt. Manning one to two people to her left facing her. Sgt. Manning was pushing an individual back with his hands on their upper torsos and yelling, “Get the fuck back!” and, “Get the fuck out of here!” As Sgt. Manning pushed this person, § 87(2)(b) felt herself being pushed backward by the force of the crowd and indirectly from Sgt. Manning pushing the individual. § 87(2)(b) was walking back away from Sgt. Manning when she saw PO Caraballo, who was behind Sgt. Manning, reach a hand over Sgt. Manning’s shoulder and point a can of pepper spray at the crowd. PO Caraballo then issued a burst of pepper spray toward the crowd hitting § 87(2)(b) and the people around her in their eyes. § 87(2)(b) immediately closed her eyes and walked toward the sidewalk to get assistance.

§ 87(2)(b) statement (**BR 92** and **BR 93**) was generally consistent with those of § 87(2)(b) and § 87(2)(b). Ambrosia saw Sgt. Manning and other officers pushing people in the crowd, but he did not hear Sgt. Manning use any profanity and did not observe PO Caraballo using his pepper spray.

§ 87(2)(b)’s statement (**BR 94**) was generally consistent with those of § 87(2)(b) and § 87(2)(b). Officers pushed § 87(2)(b) toward the curb where he saw an officer [PO Caraballo] use his pepper spray on the crowd while other officers took out, but did not use, their batons.

§ 87(2)(b) (**BR 95**, **BR 96**, and **BR 97**) was not able to see clearly after he was hit with pepper spray, so he did not witness this portion of the incident.

§ 87(2)(b) (**BR 98**) was inside the transportation van and had lost his prescription glasses during the course of his arrest, so he did not witness this portion of the incident.

The investigation was unable to obtain a statement from § 87(2)(b) or § 87(2)(b).

Sgt. Manning (**BR 99**) stated that he had been assigned to a detail stationed on the south side of Washington Square Park. At approximately 4:15 p.m., Sgt. Manning heard a radio call requesting immediate assistance at the intersection of Washington Square Park North and 5<sup>th</sup> Avenue. Sgt. Manning and the officers he was with, immediately ran through the park to the intersection. When he arrived, Sgt. Manning saw a line of approximately five officers on motor scooters on the east side of Washington Square Park North trying to drive eastbound. In addition to the officers on the motor scooters, there were approximately 10 officers on foot in the intersection,

all of whom were surrounded by hundreds of people in the street, some of whom were standing in front of the motor scooters refusing to allow them to pass.

As he was approaching the intersection, Sgt. Manning saw one of the officers on the motor scooters lose his balance and fall off his scooter. Having observed this and that people were blocking the motor scooters from passing through the intersection, Sgt. Manning started to yell for people to clear the area and to push people with his hands back away from the motor scooters and the officer who had fallen. Other officers formed a semi-circle around the officer who had fallen to separate him from the crowd, and Sgt. Manning wanted to push the people remaining in the intersection behind that line so that the motor scooters could clear the area.

Sgt. Manning gave at least four to five commands for the crowd to disperse, and, while he did not recall if he used any profanity while doing so, noted that it was a possibility. People in the crowd were pushing back against Sgt. Manning and the other officers and were throwing water over the officers. Sgt. Manning also continued to push people with his hands and instructed three to four officers who were standing in front of him with their batons out to stand their ground and to push back against anyone who pushed them, but he did not tell them how to do this and did not see any of the officers use their batons to push the crowd back (Sgt. Manning noted that he had left his baton in his van and did not have it with him at this time).

After a short time, Sgt. Manning and the other officers were able to push the crowd back enough so that the motor scooters could clear the intersection, at which point Sgt. Manning and approximately 40 other officers in the area formed a line and started to walk westbound on Washington Square Park North to clear the area. Once he got to the intersection with Washington Square Park West, a supervising officer, Sgt. Manning was not sure who, told him to go back to his initially assigned position, which he did.

Sgt. Manning had no independent recollection of observing any officers use their pepper spray, but PO Caraballo later told Sgt. Manning that when he had been running through the park to the north side of Washington Square Park, he had had to use his pepper spray because people had surrounded him and were pushing him.

PO Caraballo's statement (**BR 100**) was generally consistent with that of Sgt. Manning with the following exceptions noted. When PO Caraballo arrived at the intersection of Washington Square Park North and 5<sup>th</sup> Avenue, he saw an officer with a motor scooter on the ground surrounded by a crowd of approximately 80 people who were in the street blocking traffic. Other officers on motor scooters were trying to clear the intersection, but people were pushing the officers and blocking their forward movement. Some people were also throwing water bottles at the officers. PO Caraballo and Sgt. Manning both pushed people away from the officers on the motor scooters while simultaneously giving verbal commands for people to disperse.

After giving approximately five verbal commands for people to back away from the officers on the motor scooters, PO Caraballo decided to use his pepper spray to disperse the crowd. PO Caraballo decided on his pepper spray because the people in the crowd were refusing to comply with verbal commands, were continuing to push back against the officers, they were outnumbered by approximately 20 to 30 people, and because, besides the officers on the motor scooters, PO Caraballo and Sgt. Manning were the only officers on foot in the immediate area. PO Caraballo also recalled that he had received training in the Police Academy to use pepper spray to overcome aggression or resistance. PO Caraballo deployed his pepper spray into the crowd without directing it at any one specific person. After using the pepper spray, the people in front of him and Sgt. Manning backed away, and PO Caraballo and Sgt. Manning were able to clear the area and remove themselves from the intersection.

Captain Barias (**BR 101**) stated that he was on patrol in the general vicinity of Washington Square Park when he heard a radio communication requesting that additional units respond to the intersection of Washington Square Park North and 5<sup>th</sup> Avenue. Upon arrival, Captain Barias saw a large crowd of people yelling at officers. Officers were standing around, but Captain Barias did not recall observing any specific interactions between officers and people in the crowd, nor did he

recall observing officers on motor scooters trying to clear the intersections or any officers pushing or pepper spraying people in the crowd. Captain Barias identified himself in cell phone footage provided by § 87(2)(b) (BR 80) but had no recollection of ever speaking with Sgt. Manning.

Lieutenant Corbett (BR 102), PO Pizzimenti (BR 103), Sgt. Houlahan (BR 104), Det. Bedford (BR 105), and Captain Keung (BR 106) did not witness this portion of the incident.

Body-worn camera footage from PO James (BR 33 and BR 34) captures this incident from the beginning until approximately 1:43 minutes. At 00:19 seconds, an officer on a motor scooter falls to the ground with their motor scooter on the bottom right of the frame. Sgt. Manning is on the south side of the intersection behind this officer and helps them up. Other officers on motor scooters in the intersection are stopped as they are surrounded by people in the crowd blocking their path. By 00:25 seconds, the officer who fell is upright and back on their motor scooter. At 00:37 minutes, one of the officers on a motor scooter moves forward, and an individual steps immediately in front of the motor scooter. PO James puts his right arm across the individual's chest and, at 00:38 seconds, pushes him out of the way of the motor scooters. The individual falls backward, and PO James and other officers immediately help the individual up and out of the way of the motor scooter. At 00:42 seconds, two more individuals step in front of the motor scooters and put their hands on the front windshields, at which point a sergeant pushed one of the individuals on the chest back and out of the way.

At 1:00 minutes, officers on foot begin to form a circle around the officers on motor scooters. At 1:03 minutes, Sgt. Manning and PO Caraballo are positioned on the north side of the intersection between the officers on the motor scooters and a large crowd of people bushing toward the officers on the motor scooters. Beginning at 1:05 minutes, Sgt. Manning pushes the crowd back with his hands and elbows. At 1:07 minutes, PO Caraballo's hand is visible on Sgt. Manning's shoulder, pushing him slightly eastbound while people in the crowd cover their faces and back away. While the stream of pepper spray is not visible, PO Caraballo's hand is visible pointed toward the crowd while holding a black, hand sized object. The people in the crowd stop pushing forward toward the officers on the motor scooters and lift their hands in the air while standing stationary. At 1:13 minutes, § 87(2)(b) is visible on the left side of the frame with short orange hair wearing a black tank top and a light-colored facemask with white strings. At 1:40 minutes, § 87(2)(b) is again visible in the center of the frame with a dark pink armband tied around their left bicep. (The video does not contact between Sgt. Manning and § 87(2)(b) and § 87(2)(b) is not visible when PO Caraballo uses his pepper spray.)

TARU footage (BR 61 and BR 62) captured this portion of the incident. Beginning at 14:24 minutes, approximately 15 officers on motor scooters start to drive westbound through the intersection of Washington Square Park North and 5<sup>th</sup> Avenue. At 14:35 minutes, an officer on a motor scooter falls to the ground in the middle of the frame. At 14:45 minutes, Sgt. Manning enters the intersection where the officer is lifting up their motor scooter from the ground. At 14:48 minutes, an individual from the crowd of approximately 200 people, which is surrounding the officers on all sides, throws water in the general direction of the group of approximately 30 officers on foot and on motor scooters. There is less than an arm's distance between the officers and the people in the crowd closest to them. Sgt. Manning takes a step back and lifts his hand to his face as if hit with the water. At 15:00 minutes, the officers on motor scooters start to move forward again and the camera zooms in on the intersection, at which point the footage becomes too blurry to discern specific individuals or movements. At approximately 15:35 minutes, Sgt. Manning is visible in the upper middle of the frame pushing people back away from the officers on the motor scooters. However, the camera is at a distance, and the footage is still not clear.

§ 87(2)(b) provided cell phone footage of this portion of the incident (BR 78 and BR 81), and additional cell phone footage was obtained from social media (BR 77, BR 82, BR 83). In the first video (BR 78), at 00:12 seconds, officers on motor scooters enter the intersection of Washington Square Park North and 5<sup>th</sup> Avenue, which is full of people. At 00:22 a uniformed officer walks by the camera holding his eyes as if recently affected by pepper spray. At 00:34



seconds, Sgt. Manning walks toward the intersection from inside of the park. Beginning at 1:05 minutes, additional officers on motor scooters attempt to move through the intersection. At 1:06 seconds, PO James pushes an individual in front of one of the motor scooters down to the ground. At 1:11 minutes, another individual stands in front of the same motor scooter and leans their body weight onto the front of the motor scooter. At 1:13 minutes, a sergeant pushes one of the people in front of the motor scooters on the chest out of the way. Almost immediately, an officer on a motor scooter falls to the ground at § 87(2)(b)'s feet. Officers and a few people from the crowd help lift the officer and the motor scooter back up while other officers yell for people in the crowd to back up. Beginning at 1:25 minutes, Sgt. Manning, on the opposite side of the intersection, pushes people away from the officers on the motor scooters. It is unclear from this angle when PO Caraballo uses his pepper spray.

The second video (**BR 81**) begins with Sgt. Manning standing between the crowd and the officers on motor scooters and pushing people northbound toward 5<sup>th</sup> Avenue and away from the motor scooters. At 00:06 seconds, Sgt. Manning says, "Get the fuck out of the way!" Sgt. Manning then pushed the same individual who PO James previously pushed out of the way. At approximately the same time, PO Caraballo pulls Sgt. Manning back slightly by the shoulder and pepper sprays in the direction of the individual Sgt. Manning just pushed, hitting other people on either side of that individual as well. At 00:11 seconds, § 87(2)(b) is visible on the far right of the frame. The third video from social media (**BR 77**) is consistent with the first and is shot from a slightly different angle.

The fourth video (**BR 82**) begins with people in the crowd pushing the officers on the motor scooters. From the beginning, Sgt. Manning is pushing people away from the officers on the motor scooters, and, at 00:07 seconds, PO Caraballo pepper sprays the crowd, which is approximately two arms' length away from him. PO Caraballo moves his hand back and forth in front of the crowd and does not direct the pepper spray at any particular person. After using the pepper spray, the crowd backs away from the officers. At 00:16 seconds, Captain Barias enters the intersection. Captain Barias walks with Sgt. Manning away from the individuals and further Westbound.

The fifth video from social media (**BR 83**) begins after the prior two videos noted as Sgt. Manning is walking westbound on Washington Square Park North. At 00:03 seconds, Sgt. Manning pushes two individuals directly in front of him as he is walking to exit the intersection. Captain Barias is right behind Sgt. Manning, and PO Caraballo is to Sgt. Manning's right. The sixth video from social media (**BR 80**) continues as Captain Barias and Sgt. Manning walk westbound.

Security footage obtained from New York University (NYU) (**BR 71** and **BR 72**) captured part of this portion of the incident, but it did not capture Sgt. Manning pushing people in the crowd or PO Caraballo using his pepper spray. Beginning at 15:27 minutes the camera, which captures an aerial view of Washington Square Park from the south, zooms in to the northwest corner of Washington Square Park North and 5<sup>th</sup> Avenue. At 15:35 minutes, Sgt. Manning is visible in the center of the frame by the edge of the arch with an officer pulling him westbound by the left shoulder. PO Caraballo is immediately to Sgt. Manning's right.

Sgt. Manning created TRIs in regard to PO Caraballo's use of pepper spray (**BR 107** and **BR 108**). He noted that when officers responded to a 10-13 at a protest, officers were "surrounded and pushed by a large and aggressive crowd. Officer [PO Caraballo] believed that he and other MOS were in danger when he deployed his pepper spray which dispersed the crowd that fled on foot in an unknown direction." No injuries were noted as a result of the use of pepper spray.

The investigation determined that officers on motor scooters were trying to move westbound through the intersection when people from the crowd surrounded them and stood in front of them, preventing them from moving forward through the intersection. At least two officers on the motor scooters fell to the ground. PO James pushed an individual who was immediately in front of one of the motor scooters out of the way while other officers in the general area also pushed people to clear the area for the motor scooters to pass. Sgt. Manning entered the intersection after

the first officer fell off the motor scooter to the ground and pushed the same individual as PO James as well as other people in the crowd who were advancing toward the officers on the motor scooters, telling people to “Get the fuck back!” in the process. When the people continued to advance, PO Caraballo used his pepper spray on the people in the crowd directly in front of him and Sgt. Manning, at which point the people backed up, eventually allowing the officers on the motor scooters to pass through the intersection uninhibited.

Patrol Guide procedure 221-01 (**BR 109**) states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody. In determining whether the use of force is reasonable, members of the service should consider the following: 1) The nature and severity of the crime/circumstances. 2) Actions taken by the subject. 3) Duration of the action. 4) Immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders. 5) Whether the subject is actively resisting custody. 6) Whether the subject is attempting to evade arrest by flight. 7) Number of subjects in comparison to the number of MOS. 8) Size, age, and condition of the subject in comparison to the MOS. 9) Subject’s violent history, if known. 10) Presence of hostile crowd or agitators. 11) Subject apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence.

Patrol Guide procedure 221-07 (**BR 112**) states that officers can use peppers spray in situations where the officer reasonably believes that it is necessary to gain or maintain control of persons who are actively resisting arrest or lawful custody or exhibiting active aggression and to prevent individuals from physically injuring themselves, members of the service, or other persons.

§ 87(2)(g)

Patrol Guide Procedure 200-02 (**BR 110**) states that the department is committed to accomplishing its mission of protecting the lives and property of all citizens of New York City by treating every citizen with compassion, courtesy, professionalism, and respect

In DAO-DCT Case Number: 2017-17276 (**BR 111**) the court held that language which would ordinarily be inappropriate in dealing with civilians may be excused in the course of a violent and stressful confrontation.

§ 87(2)(g)

**Pleading Language for all allegations to be closed as § 87(2)(g)**

**Allegation (K) Abuse of Authority: An officer threatened § 87(2)(b) with the use of force.**

**Allegation (L) Discourtesy: An officer spoke discourteously to § 87(2)(b)**

**Known facts and general descriptions**

**Allegations (K) and (L):**

§ 87(2)(b) (BR 94) stated that after he saw people hit with pepper spray in the intersection of 5<sup>th</sup> Avenue and Washington Square Park North, he walked from the north side of the park by the arch toward the west side of the park. As he was walking, an officer chased after him while brandishing a baton. § 87(2)(b) did not provide a specific location in the park where this occurred, nor did he provide a description of the officers.

§ 87(2)(b) (BR 92 and BR 93) stated that on the southwest side of the intersection of Washington Square Park North and 5<sup>th</sup> Avenue, he saw a white male officer, who was approximately 5'10" to 5'11 inches tall with a regular to athletic build, in his 30s to 40s, wearing a dark blue uniform chase after § 87(2)(b) while holding a baton. As this officer chased § 87(2)(b) he yelled, "You think we're fucking around?"

§ 87(2)(b) did not describe the direction § 87(2)(b) and this officer were going when he observed the officer chasing § 87(2)(b)

**BWC and Cellphone Footage**

**Allegations K and L** were not captured on any received video footage.

**NYPD Documents Reviewed**

The investigation obtained desk/unit copies of roll call and detail rosters for the following commands: The 1<sup>st</sup> Precinct (BR 113), the 9<sup>th</sup> Precinct (BR 114), the 6<sup>th</sup> Precinct (BR 115), the 14<sup>th</sup> Precinct (BR 116), the 122<sup>nd</sup> Precinct (BR 117), and IAB (BR 118).

Because of incomplete descriptions of the officers involved in these allegations, the investigation was unable to narrow down subject officers based on roll calls and detail rosters.

**Concurrent Investigations**

There are no ongoing concurrent investigations involving the subject officers pertaining to this case.

**Ranking Officers**

The highest-ranking officer identified as being present for this incident on June 2, 2020, was Deputy Inspector Conor Wynne from the 17<sup>th</sup> Precinct. However, he was not interviewed as he was not present in the vicinity of these allegations and his statement would not have otherwise affected the dispositions.

**Officers Interviewed**

**Allegations (K) and (L):**

Det. Bedford, Lieutenant Corbett, PO Caraballo, Captain Barias, Captain Keung, Sgt. Houlahan, Sgt. Manning, PO Pizzimenti, and PO Janison all stated that they did not witness any officers chasing after a male individual on the west side of Washington Square Park while waving a baton. They all also did not hear any officer says to anyone, "Do you think we're fucking around?"

**Allegation recitation and dispositions**

§ 87(2)(g)

§ 87(4-b)

#### **Civilian and Officer CCRB Histories**

- This is the first complaint to which § 87(2)(b) has been a party (**BR 120**).
- This is the first complaint to which § 87(2)(b) has been a party (**BR 121**).
- This is the first complaint to which § 87(2)(b) has been a party (**BR 122**).
- This is the first complaint to which § 87(2)(b) has been a party (**BR 123**).
- PO James has been a member of service for five years and this is the first CCRB complaint to which he has been a subject.
- Sgt. Manning has been a member of service for 19 years and has been a subject in six CCRB complaints and 11 allegations, one of which was substantiated.
  - 201810167 involved a substantiated allegation of an entry. The Board recommended Command Discipline A, and the NYPD imposed Command Discipline A. § 87(2)(g)
- PO Caraballo has been a member of service for four years and has been a subject in two CCRB complaints and four allegations, one of which was substantiated.
  - 201904816 involved a substantiated allegation of a discourtesy. The Board recommended Command Discipline A, and the NYPD imposed a loss of one vacation day and Command Discipline A. § 87(2)(g)

#### **Mediation, Civil, and Criminal Histories**

- This complaint was not suitable for mediation.
- § 87(2)(b) filed a Notice of Claim with the City of New York claiming injuries to her physical well-being, violations of her constitutional, common law, and statutory rights, and injuries including burning and swelling in the eyes, hands, and forearms as a result of the use of pepper spray, anxiety, and post-traumatic stress, and seeking that a jury determine the amount of redress (**BR 124**). There is no 50H hearing scheduled.
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (**BR 125**).

- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (**BR 126**).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (**BR 127**).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (**BR 128**).

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Squad: 10

Investigator: Maura R. Roche SI Maura R. Roche 10/18/2021  
 Signature Print Title & Name Date

Squad Leader: Eric Rigie IM Eric Rigie 10/18/2021  
 Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
 Signature Print Title & Name Date